

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

IN RE:

James Alexander Saadi

Case No.: 16-05084

Chapter: 13

Hearing Date: 3/11/16

Debtor(s)

Judge Bruce W. Black (Joliet)

NOTICE OF MOTION

TO: Glenn B Stearns, Chapter 13 Trustee, 801 Warrenville Road, Suite 650, Lisle, IL 60532 by electronic notice through ECF
James Alexander Saadi, Debtor(s), 356 Grape Vine Trail, Oswego, IL 60543
Paul M. Bach, Attorney for Debtor(s), 900 Jorie Boulevard Suite 150, Oak Brook, IL 60523 by electronic notice through ECF

PLEASE TAKE NOTICE that on the 3/11/16, at 10:00AM, or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge Bruce W. Black, Bankruptcy Judge, in the courtroom usually occupied by him/her at the Joliet City Hall, 150 West Jefferson Street, 2nd Floor, Joliet, Illinois 60432 or before any other Bankruptcy Judge who may be sitting in his/her place and stead, and shall then and there present this Motion of the undersigned, a copy of which is attached hereto and herewith served upon you, and shall pray for the entry of an Order in compliance therewith, at which time you may appear if you so desire.

PROOF OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed above, as to the Trustee and Debtor's attorney via electronic notice on March 4, 2016 and as to the debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on March 4, 2016.

/s/ Rachael Stokas

Attorney for Movant

Berton J. Maley ARDC#6209399

Rachael A. Stokas ARDC#6276349

Gloria C. Tsotsos ARDC#6274279

Jose G. Moreno ARDC#6229900

Peter C. Bastianen ARDC#6244346

Joel P. Fonferko ARDC#6276490

Codilis & Associates, P.C.

15W030 North Frontage Road, Suite 100

Burr Ridge, IL 60527

(630) 794-5300

C&A FILE (14-14-12795)

NOTE: This law firm is a debt collector.

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed below, as to the Trustee and Debtor's attorney via electronic notice on March 4, 2016 and as to the debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on March 4, 2016.

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/s/ Rachael Stokas
Attorney for Movant

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MOTION FOR RELIEF FROM THE AUTOMATIC STAY

NOW COMES CITIMORTGAGE, INC. (hereinafter "Movant"), by and through its attorneys, Codilis & Associates, P.C., and moves this Honorable Court pursuant to 11 U.S.C. §362(d) for an Order granting Movant relief from the automatic stay , and in support thereof states as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and General Rule 2.33 of the United States District Court for the Northern District of Illinois;

2. The Debtor is indebted to Movant for which the Movant claims a valid security interest in the property commonly known as 2037 Alta Vista Court, Naperville, IL 60563;

3. This security interest arose from a Note and Mortgage, executed on 10/24/2006, in the amount of \$441,453.00;

4. Enforcement of this security interest has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code upon Debtor filing of this petition on 2/17/16;

5. According to the chapter 13 plan, the aforementioned property known as 2037 Alta Vista Court, Naperville, IL60563 is to be surrendered;

6. On 02/25/2011, Movant filed a complaint to foreclose on the aforementioned property, state chancery case number 11 CH 01006;

7. On 2/4/2015, a Judgment for Foreclosure and Sale was entered in the amount of \$597,194.24;

8. Pursuant to said Judgment, a Judicial Sale was held on 01/26/2016;

9. Due to the fact that the Sheriff's Sale was consummated prior to the Debtor's filing, the Sheriff's Sale is valid under Colon v. Option One Mortg. Corp., 319 F.3d 912 (7th Cir. 2003), and the Debtor no longer retains the right to reinstate or payoff said debt to Movant;

10. Pursuant to 11 U.S.C. §1322(c)(1) as amended by the Bankruptcy Reform Act of 1994, a chapter 13 plan may not cure a defaulted mortgage that has gone to foreclosure sale;

11. This Court has authority to order that Rule 4001(a)(3) is not applicable to the order entered in granting this motion, and Movant requests this Court so order;

12. That in the event the stay is modified, Movant requests this Court find that Rule 3002.1 is not applicable with respect to Movant as the loan secured by the property described herein will not be paid pursuant to 11 U.S.C. 1322(b)(5);

13. Movant has incurred attorney fees and/or costs in connection with this bankruptcy proceeding as follows:

\$850.00 for Preparation of Notice and Motion for Relief from the
Automatic Stay, and prosecution of same
\$176.00 for Court filing fee

WHEREFORE, CITIMORTGAGE, INC. prays this Court enter an Order pursuant to 11 U.S.C. Section 362(d) modifying the automatic stay as to Movant, and for such other and further relief as this Court may deem just and proper.

Dated this March 4, 2016.

Respectfully Submitted,

Codilis & Associates, P.C.

By: /s/ Rachael Stokas

Berton J. Maley ARDC#6209399

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